

August 28, 2000

Ray Pilon, Project Manager
Department of the Army
Buffalo District, Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207-3 199

Via Facsimile: (716) 879-4

KOEGEL

& SHAW

**Re: Remedial Investigation Work Plan -
Supplemental Comments on Addendum to the
Work Plan for Phase I (i.e. Phase II) Remedial
Investigation for the Lake Ontario Ordnance Works
Component Two - Somerset Group Site (the "Site")**

Dear Ray:

During a meeting held at the Site on July 28, 2000, with you, an EA Engineering Science & Technology, Inc. ("EA") representative, my client, Mr. John Syms, and myself, Mr. Syms & I verbally added several additional comments beyond those previously provided in writing. Ronald J. Kuis, Esq. in his letter of June 6, 2000 presented to the Army Corps of Engineers ("ACOE") on behalf Mr. Syms (the "June 6th Comment Letter"). We also conducted a lengthy walk over and identified in the field areas of concerns that needed to be addressed under the ongoing RI investigation of the Site.

I advised you at the meeting that pursuant to the terms of paragraph 5 in the June, 2000 Right of Entry Agreement ("ROE Agreement"), the ACOE was required to either consider our comments (whether oral or written) and incorporate requested items into the RI scope of work or respond in writing to our comments with technical reasons and other reasons for not incorporating into the scope of work the item(s) requested. I also advised you during the meeting that failure to respond to written comments on a work plan during the appropriate comment period is in violation of the National Contingency Plan ("NCP"). I explained that we were not requesting a budget expansion, but rather a readjustment of the current \$367,000 budget to address such items. At the end of this meeting, you apologized for failing to respond to the June 6th Comment Letter and agreed to provide us with a response shortly after the meeting. You also agreed to add certain items requested in the letter to the ongoing RI scope of work and to follow up on other items.

It is important to note for the record that we have not received any written response to the June 6th Comment Letter or received any follow up on the issues we discussed at the meeting. This is a direct violation of both the ROE Agreement and the NCP, and my verbal request for a response has been forthcoming and the Phase II Remedial Investigation ("RI") of the Somerset Group Site (the "Site") has proceeded.

8/3/2000

M. BARZALL
W. KOWALEWSKI
F. BOGLIONE
M. O'MARR

(Bash
EA



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According to my client, approximately 50 samples have been taken and two additional monitoring wells have been installed in locations that are not in close proximity to areas of concern identified in the June 6th comment letter or during our July 28th site walk over. Two new wells have been placed approximately 75-80 feet away from the two relevant areas of concerns: (1) large lithium and boron pipelines observed in the field on July 28th during our site walkover and (2) AFP-68. Moreover, we have been informed that the investigation is temporarily on hold due to the discovery of asbestos containing materials (ACM) in Areas 3 and 5.

We believe that we had made very clear to you and a number of ACOE representatives during our negotiations on the ROE Agreement, that unless we had the opportunity to review sample locations and well installation points **before** the RI work proceeded, our client did not want the RI to proceed. A Site investigation consisting of samples points located far from areas of concern will continue to produce misleading and incomplete information. If the ACOE's contractors are unable to sample the locations where historic information, past investigations and field observations reveal are the most likely source areas of potential contamination (e.g.s. within several feet of large pipelines such as the lithium and boron pipelines or AFP-68), an RI is a waste of time and taxpayer's money.

We have prepared this correspondence for the record and to put the Army Corps of Engineers on notice that:

1. Mr. Syms, Knauf Koegel & Shaw, LLP and Ronald Kuis, Esq. are still waiting for a response to Mr. Kuis' June 6th comment letter.
2. Mr. Syms, Knauf Koegel & Shaw, LLP and Ronald Kuis, Esq. formally request a response to the additional comments in this letter discussed directly with you and your contractor during the July 28th meeting; and
3. the ACOE has violated the ROE Agreement and the NCP.

I. Resampling Nine Existing Groundwater Monitoring Wells

During our July 28th meeting, you agreed to address one of the issues raised in the June 6th Comment Letter regarding the resampling of nine permanent groundwater monitoring wells currently located on the Site that were installed in approximately late 1991. You indicated that such sampling activities would be added to the scope of work for the current RI. According to Mr. Syms, EA has cut the deadlock bolts off of the nine wells but has not agreed to provide Mr. Syms with keys to the



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new locks once resampling has occurred.

Pursuant to the terms of the Right of Entry Agreement, Mr. Syms retained the right to receive split samples and have independent consultants on-site during such activities and was supposed to be advised 10 business days prior to such activities being conducted. No split samples have been provided despite the fact that Mr. Syms has requested such samples. We also believe Mr. Syms should have keys to locked wells on his property. Please be aware that the agreement requires Mr. Syms receipt within 30 days of all "testing, analyses and data of any kind" once received from the laboratory. Given all of the other violations of the ROE Agreement, we strongly suggest that the Government comply with this provision.

II. Sampling in "Dead Frog" Zone

During our July 28" meeting, you agreed to conduct sampling in a ditch in Area 30A where Mr. Syms and a New York State DEC representative observed 17 dead frogs on or about April 11, 2000. On July 28th we did not observe dead wildlife but the ditch was covered with a brown foamy substance. **It is not clear whether or not you have conducted sampling in this area during the RI, but if you have not, we request that a sampling program be performed in this ditch area utilizing properly designed scientific methodologies for the purpose of locating any contamination that may be in the ditch.**

II. Sampling in Central Drainage Ditch

During the July 28" meeting, we did not reach final agreement as to when and how additional sampling in the Central Drainage Ditch for radioactive nuclides would be performed. At that time, you agreed to discuss whether additional sampling in this area could be performed in conjunction with the sampling program that is being conducted in relation to the Niagara Falls Storage Site ("NFSS") as a potential off-site migratory pathway from the NFSS. **Please provide a formal response regarding when the Central Drainage Ditch on the Somerset Group property will be sampled for the presence of radioactive contamination. Please note that the sampling program designed for this Ditch must be planned for a depth of between 2-3 feet below the bottom of the Ditch in order to obtain valid sampling data.**

IV. Boron and Lithium Lines, Lateral Chemical Waste Lines & Soil Under Chemical Waste Lines.

During the July 28" site walk over, it became clear that a number of very large pipelines,



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approximately 2 feet in diameter and sticking out of the ground approximately 4 feet, have never been the subject of investigation. In addition, some smaller lateral lines that feed off of these larger lines and off of the chemical waste lines that were subject to a remedial action last year, have not been investigated. Moreover, due to the fact that the chemical waste lines remediated last summer were found to only contain water, the lines were not physically removed from the Site and we do not believe soil under the pipelines was not investigated. We cannot provide detailed comments on the chemical waste line remediation project because the final report has not been prepared. However, it became very obvious in the field on July 28th that the very same pipelines extended onto CWM's adjacent property (which used to be owned by Somerset) were all being physically removed.

All of these pipelines contained either hazardous substances, such as boron and lithium or hazardous or explosive wastes. These pipelines, and more importantly the soil and groundwater under the pipelines, has not been investigated during the Phase I RI on the Somerset Croup Property, and there are no plans to conduct further investigations of these lines in the Phase II RI. In addition, the chemical waste lines that were cleaned out during the Phase I RI were left in place on the site. Why did these lines require cleaning if there was only water in the lines? During a RAB board meeting, you informed me that samples conducted in the chemical waste lines on the Site revealed samples "just at the explosive level". Where did all of the contamination in the lines go?

Please provide an explanation as to:

- a. **Why the large boron and lithium lines were not included in the RI investigation of the site?**
- b. **Why the lateral lines were not included in the RI investigation of the site?**
- c. **Why the chemical waste lines are being removed on the adjacent CWM property but not on the Site?**

During our July 28th field walkover, we request that the ACOE recommend to EA that it move some of the miscellaneous grid sampling points to locations in close proximity (several feet) to the boron and lithium lines, the lateral lines and under the "cleaned" chemical waste lines to determine if these lines ever leaked. If you disagree, please provide technical reasons and other reasons for not incorporating investigation of the subsurface conditions under these pipelines in the scope of work for the RI.

V. Additional Sampling for Chemicals That Were Actually Used at AFP-68.



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Attached is a list of the chemicals that were used at APP-68 according to as-built drawings and plans of the building. You will note that some of the chemicals are not common and may not be part of routine sampling scans being utilized for the Phase II RI.

Please confirm which chemicals are not being sampled and whether these chemicals can be added to the list of substances that may be sampled for at the lab. If certain chemicals are not covered by the scans being utilized, and you disagree that additional sampling should be performed, please provide technical reasons and other reasons for not incorporating additional chemical-specific sampling into the scope of work for the RI.

VI. Groundwater Sampling to Delineate Nature and Extent of Contamination.

During the July 28th meeting, we discussed in further detail the first comment in Mr. Kuis' June 6th correspondence. If soil contamination has been found in concentrations suggesting deeper groundwater contamination or groundwater contamination has been found during past investigations, we assume that one of the primary purposes of this Phase II RI should be to further delineate the nature and extent of the areas of contamination previously discovered. However, our review of the scope of work for the Phase II RI indicated that very limited, if any groundwater sampling was going to be conducted.

During the introductory March 1999 RAB meeting, a summary document was handed out indicating lithium and RDX groundwater contamination on the Site. A copy has been attached for your review. Despite numerous verbal inquiries to the ACOE and its contractors, we have not been able to determine the source of the groundwater contamination information presented in the summary table.

Please respond with an explanation of the source of information for the conclusions presented in the summary table that the Site has lithium and RDX groundwater contamination, where such contamination is located on the Site, and whether the Phase II RI is further delineating the nature and extent of this area(s) of contamination.

* * *

I assume you know by now that we have filed a complaint in federal court. I still think that we can proceed with the RI if the above issues are addressed in the field or in writing.



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Sincerely,

KNAUF KOEGEL & SHAW, LLP

Linda R. Shaw

LRS/soi

Enclosure

pc: Ronald J. Kuis, Esq. (w/ encl.)
Mr. John L. Syms (w/ encl.)

EXHIBIT "A"

COMPOUNDS ASSOCIATED WITH AIR FORCE PLANT NO. 68
HIGH ENERGY FUELS PRODUCTION
(Identified on site plans and as-built drawings)

aluminum chloride
aluminum hydroxide
asbestos
boron
calcium carbonate
calcium chloride
calcium hydroxide
calcium metaborate
carbon
carbon dioxide
carbon monoxide
chlorine
deca borane
diborane
diethyl ether
dispersion oil
ethyl chloride
Fuel Oil No. 2
hydrazine compounds
hydrogen
hydrogen chloride
isopropyl chloride
lithium
lithium chloride

oxygen
pentaborane
pentane
potassium chloride
propane
silicon tetrachloride
sodium borohydride
sodium chloride
sodium hydroxide

Exhibit "D"

**AREAS PROPOSED FOR NO FURTHER ACTION OR FURTHER INVESTIGATION
BASED ON RESULTS OF THE 1998 PHASE 1 REMEDIAL INVESTIGATION**

COMPONENT	CONSTITUENTS OF CONCERN	AREA OF INVESTIGATION	NO FURTHER ACTION RECOMMENDED UNDER DERP- FUDS PROGRAM REMEDIAL INVESTIGATION*	FURTHER REMEDIAL INVESTIGATION RECOMMENDED UNDER DERP- FUDS PROGRAM
1 (CWM Chemical Services, Inc.)	Soil: PAHs, Benzene, TNT, TCE, Pesticides	Nitration Houses		X
		Area C		X
		Area North of C		X
	Groundwater: Boron, TCE, TNT TCA, RDX, 4-amino-2,6- dinitrotoluene	Waterline Construction Area (WCA) 2	X	
		WCA 3	X	
		WCA 4		X
		Trash Pit		X
		Vicinity Property G		X
		Air Force Plant 68 (AFP-68) Process Area 2		X
		AFP-68 Process Area 4		X
		AFP-68 Process Area 7		X
		AFP-68 Process Area 8	X	
		AFP-68 Process Area 10		X
		AFP-68 Process Area 11	X	
		AFP-68 Process Area 14	X	
		AFP-68 Process Area 16	X	
		AFP-68 Process Area 18S	X	
		AFP-68 Process Area 20		X
		AFP-68 Process Area 22		X
		AFP-68 Process Area 24	X	
		Navy Interim Production Pilot Plant (IPPP)		X
2 (Somerset Group)	Groundwater: Lithium, RDX	Ground Scar	X	
		AFP-68 T1 and T2		X
		AFP-68 T3	X	
		AFP-68 Process Area 3		X
		AFP-68 Process Area 5		X
		AFP-68 Process Area 18N		X
		Process Area 30A		X
3 (Town of Lewiston)	Soil: PAHs Groundwater: Boron, Lithium	Wastewater Treatment Plant (WWTP)		X
		WWTP Vicinity Shops		X
5 (U.S. Government- Niagara Falls Storage Site)	Soil: PAHs Groundwater: Lithium, TCE	Acid Contamination Area		X
		Shop Area South O Street		X
		WWTP Vicinity Shops		X
6 (Modem Disposal Services, Inc.)		Former LOOW Incinerator		X
7 (Sludge)	Sludge: Pesticides, Explosives	Former LOOW Underground Lines		X
8 (Wastewater)		Former LOOW Underground Lines		X
9 (Surface Water and Sediment)	Surface Water: Hydrazine, Boron, Lithium	Four Mile Creek Drainage		X
		Six Mile Creek	X	
		Twelve Mile Creek		X

* DERP-FUDS = Defense Environmental Restoration Program-Formerly Used Defense Sites.